

107TH CONGRESS
1ST SESSION

H. R. 2417

To facilitate the creation of a new global top-level Internet domain that will be a haven for material that will promote positive experiences of children and families using the Internet, to provide a safe online environment for children, and to help prevent children from being exposed to harmful material on the Internet, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2001

Mr. SHIMKUS (for himself and Mr. MARKEY) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To facilitate the creation of a new global top-level Internet domain that will be a haven for material that will promote positive experiences of children and families using the Internet, to provide a safe online environment for children, and to help prevent children from being exposed to harmful material on the Internet, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dot Kids Domain
5 Name Act of 2001”.

1 **SEC. 2. ESTABLISHMENT OF KIDS-FRIENDLY TOP-LEVEL**
2 **DOMAIN NAME.**

3 (a) NTIA ACTION.—Within 30 days after the date
4 of the enactment of this Act, the Secretary of Commerce,
5 acting through the National Telecommunications and In-
6 formation Administration, shall—

7 (1) pursuant to the authority under section
8 II.B. of the Memorandum of Understanding Be-
9 tween the U.S. Department of Commerce and the
10 Internet Corporation for Assigned Names and Num-
11 bers, entered into on November 25, 1998, regarding
12 oversight of the policy for determining the cir-
13 cumstances under which new top-level Internet do-
14 mains are added to the root system, jointly with
15 ICANN, develop a plan in accordance with section 3
16 of this Act for ICANN to establish the new domain
17 in accordance with the requirements under sub-
18 section (b) of this section;

19 (2) upon completion of the development of such
20 plan, make the plan publicly available; and

21 (3) enter into any memorandums of under-
22 standing, agreements, and contracts with ICANN,
23 and any amendments to existing such memoran-
24 dums, agreements, and contracts, as may be nec-
25 essary to provide for ICANN to carry out such plan.

1 (b) REQUIREMENTS FOR NEW DOMAIN.—The new
2 domain shall be subject to the following requirements:

3 (1) TOP-LEVEL, INTERNATIONAL DOMAIN.—

4 The new domain shall be established as a top-level,
5 International domain having a domain name appro-
6 priate for its purpose.

7 (2) GREEN LIGHT APPROACH.—The new do-
8 main shall be available for voluntary use as a loca-
9 tion only of material that is considered suitable for
10 minors and shall not be available for use as a loca-
11 tion of any material that is harmful to minors.

12 (3) OPERATOR OF DOMAIN.—The entity se-
13 lected pursuant to section 3 to establish, operate,
14 and maintain the new domain shall—

15 (A) establish, operate, and maintain the
16 domain in accordance with the requirements
17 under this subsection; and

18 (B) provide for the creation of an inde-
19 pendent board, with diverse membership, which
20 shall be responsible for—

21 (i) establishing written criteria for ac-
22 cepting registrants for the new domain and
23 for any limitations applicable to the new
24 domain, which shall include a requirement
25 that any registrant agree to use the new

1 domain in accordance with paragraph (2);

2 and

3 (ii) ensuring that subscription rates or

4 fees for obtaining a new domain name are

5 as minimal as possible.

6 (4) CONSULTATION.—In carrying out the estab-
7 lishment, operation, and maintenance of the new do-
8 main, family organizations and international organi-
9 zations concerned with the operations of the Internet
10 shall be coordinated with and consulted.

11 (5) PERIODIC AUDITS.—Periodic audits shall be
12 conducted to ensure compliance with requirements,
13 registration criteria, and limitations applicable to the
14 new domain.

15 (6) REVIEW OF EXCLUSION.—A registrant to
16 the new domain shall have the opportunity for an
17 impartial hearing regarding any material excluded
18 from the domain. Such a hearing shall provide the
19 basic elements of due process, including adequate
20 notice, a right to representation, an opportunity to
21 present evidence and witnesses, an opportunity to
22 examine and refute evidence, an opportunity to
23 cross-examine witnesses, and a right to a decision on
24 the merits.

1 (7) OTHER.—Any other requirements that may
2 be established under the plan developed pursuant to
3 subsection (a).

4 **SEC. 3. SELECTION PROCESS FOR OPERATOR OF NEW DO-**
5 **MAIN.**

6 (a) APPLICATION PROCESS.—A plan in accordance
7 with this section shall establish a process for soliciting ap-
8 plications for establishment of the new domain, which
9 process shall—

10 (1) commence and complete not later than 60
11 days after the expiration of the 30-day period re-
12 ferred to in section 2(a);

13 (2) provide adequate notice to prospective appli-
14 cants (including any applicant that previously filed
15 an application with ICANN for similar purposes
16 that was rejected) of—

17 (A) the opportunity to submit such an ap-
18 plication; and

19 (B) the criteria for selection under sub-
20 section (b)(1);

21 (3) involve a fee for filing an application that
22 does not exceed the minimum amount reasonably es-
23 timated as necessary to recover any expenses of
24 ICANN relating to the process for establishing the
25 new domain; and

1 (4) provide for reimbursement to applicants of
2 any amounts collected in filing fees that exceed the
3 actual amount of expenses of ICANN relating to the
4 process for establishing the new domain.

5 (b) SELECTION PROCESS.—A plan in accordance
6 with this section shall establish a process for selection,
7 from applications submitted pursuant to the process under
8 subsection (a), of an application for the establishment of
9 the new domain in accordance with the requirements
10 under section 2(b). Such selection process shall comply
11 with the following requirements:

12 (1) CRITERIA.—The selection shall be made
13 pursuant to written, objective criteria designed to
14 ensure—

15 (A) that the new domain is established, op-
16 erated, and maintained in accordance with the
17 requirements under section 2(b); and

18 (B) that the entity selected to establish,
19 operate, and maintain the domain is the appli-
20 cant most capable and qualified to do so.

21 (2) INITIAL REVIEW.—Not more than 60 days
22 after the conclusion of the application period pursu-
23 ant to subsection (a)(1), ICANN shall—

1 (A) review and apply the selection criteria
2 established under paragraph (1) to each appli-
3 cation submitted; and

4 (B) based upon such criteria, select an ap-
5 plication and award to the applicant a contract
6 for establishment, operation, and maintenance
7 of the new domain, unless ICANN determines
8 that no applicant could minimally provide for
9 establishment, operation, and maintenance of
10 the new domain in accordance with the require-
11 ments under section 2(b).

12 (3) SECOND APPLICATION PERIOD.—If no ap-
13 plicant is selected pursuant to paragraph (2), not
14 later than 30 days after the expiration of the 60-day
15 period under paragraph (2), ICANN shall commence
16 another application and selection process that com-
17 plies with the requirements under subsection (a) and
18 this subsection.

19 (4) REPORT.—If the second application and se-
20 lection process pursuant to paragraph (3) does not
21 result in the award of a contract for establishment,
22 operation, and maintenance of the new domain, not
23 later than 30 days after the conclusion of such sec-
24 ond 60-day period under paragraph (2), ICANN
25 shall inform the Secretary of Commerce in writing

1 of such failure to award a contract and submit to
2 the Secretary a report describing the application and
3 selection process and setting forth the reasons for
4 such failure to award a contract.

5 (c) FULL OPERATION.—A plan in accordance with
6 this section shall provide for ICANN to take all actions
7 necessary to facilitate the full operation of the new domain
8 within 6 months after the award of the contract for estab-
9 lishment, operation, and maintenance of the domain.

10 (d) PRIORITY FOR ESTABLISHMENT OF DOMAIN.—

11 (1) ICAAN.—A plan in accordance with this
12 section shall provide that ICANN may not establish
13 any top-level generic or country code Internet do-
14 main that has not already been approved by ICANN
15 on or before the date of the enactment of this Act
16 until after the new domain provided for under such
17 plan has been established.

18 (2) DEPARTMENT OF COMMERCE.—The Sec-
19 retary of Commerce may not approve, through the
20 National Telecommunications Information Adminis-
21 tration or otherwise, the establishment of any top-
22 level generic or country code Internet domain that
23 has not already been approved by ICANN on or be-
24 fore the date of the enactment of this Act until after

1 the new domain has been established pursuant to a
2 plan in accordance with this section.

3 (e) CONTINUATION OF DEPARTMENT OF COMMERCE
4 OVERSIGHT AND APPROVAL AUTHORITY.—During any
5 period that ICANN has any authority for the establish-
6 ment of top-level generic or country code Internet domains
7 and for selection of registry services for such domains, the
8 Secretary of Commerce—

9 (1) shall carry out oversight and approval of
10 such functions for the Federal Government;

11 (2) shall make every reasonable effort to retain
12 the authority reserved to the Department of Com-
13 merce under the Memorandum of Understanding re-
14 ferred to in section 2(a)(1) of this Act and any
15 amendments to such Memorandum; and

16 (3) shall diligently exercise such authority.

17 (f) ANNUAL OVERSIGHT.—A plan in accordance with
18 this section shall provide that ICANN shall, on an annual
19 basis, review the actions of the entity selected to establish,
20 operate, and maintain the new domain to ensure that such
21 entity is complying with the requirements of section 2(b).

22 **SEC. 4. LIABILITY PROTECTIONS.**

23 (a) TREATMENT OF PUBLISHER OR SPEAKER.—No
24 person or entity that operates or maintains the new do-
25 main shall be treated as the publisher or speaker of any

1 information provided by another registrant for the do-
2 main.

3 (b) CIVIL LIABILITY.—No person or entity that oper-
4 ates or maintains the new domain shall be held liable be-
5 cause of—

6 (1) any action voluntarily taken in good faith to
7 restrict access through the new domain to, or avail-
8 ability through the new domain of, material that
9 such person or entity considers to be harmful to mi-
10 nors, obscene, lewd, lascivious, filthy, excessively vio-
11 lent, harassing, or otherwise objectionable, whether
12 or not such material is constitutionally protected, ex-
13 cept that any action taken to exclude specific mate-
14 rial from the new domain shall be subject to the pro-
15 visions of section 2(b)(6); or

16 (2) any action taken to enable or make avail-
17 able to registrants to the new domain or others the
18 technical means to restrict access by minors to ma-
19 terial described in paragraph (1).

20 **SEC. 5. EDUCATION AND OVERSIGHT.**

21 (a) EDUCATION.—The Secretary of Commerce, act-
22 ing through the National Telecommunications and Infor-
23 mation Administration, shall carry out a program to pub-
24 licize the availability of the new domain and to educate
25 the parents of minors regarding the process for utilizing

1 the domain in combination and coordination with hard-
2 ware and software technologies that provide for filtering
3 or blocking of unsuitable content. The program under this
4 subsection shall be commenced not later than 30 days
5 after the date that the new domain first becomes oper-
6 ational and accessible by the public.

7 (b) OVERSIGHT.—The Secretary of Commerce, acting
8 through the National Telecommunications and Informa-
9 tion Administration, and the entity selected to operate and
10 maintain the new domain shall—

11 (1) consult with the Attorney General regarding
12 appropriate procedures and actions to prevent mi-
13 nors and families who use the new domain from
14 being targeted by adults and other children for pred-
15 atory behavior, exploitation, or illegal actions; and

16 (2) establish such procedures and take such ac-
17 tions as may be necessary to prevent such targeting.

18 The consultations, procedures, and actions required under
19 this subsection shall be commenced not later than 30 days
20 after the date that the new domain first becomes oper-
21 ational and accessible by the public.

22 **SEC. 6. DEFINITIONS.**

23 For purposes of this Act:

1 (1) ICANN.—The term “ICANN” means the
2 Internet Corporation for Assigned Names and Num-
3 bers.

4 (2) MATERIAL THAT IS HARMFUL TO MI-
5 NORS.—The term “material that is harmful to mi-
6 nors” means any communication, picture, image,
7 graphic image file, article, recording, writing, or
8 other matter of any kind that is obscene or that—

9 (A) the average person, applying contem-
10 porary community standards, would find, taking
11 the material as a whole and with respect to mi-
12 nors, is designed to appeal to, or is designed to
13 pander to, the prurient interest;

14 (B) depicts, describes, or represents, in a
15 manner patently offensive with respect to mi-
16 nors, an actual or simulated sexual act or sex-
17 ual contact, an actual or simulated normal or
18 perverted sexual act, or a lewd exhibition of the
19 genitals or post-pubescent female breast; and

20 (C) taken as a whole, lacks serious literary,
21 artistic, political, or scientific value for minors.

22 (3) MINOR.—The term “minor” means any per-
23 son under 17 years of age.

1 (4) NEW DOMAIN.—The term “new domain”
2 means the Internet domain established pursuant to
3 this Act.

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